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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,108	01/19/2004	Andrew D. Cohen	007412.00060	3120
71867 7590 05/12/2011 BANNER & WITCOFF, LTD ATTORNEYS FOR CLIENT NUMBER 007412 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051				
EXAMINER				
BAIG, SAHAR A				
ART UNIT		PAPER NUMBER		
2424				
MAIL DATE		DELIVERY MODE		
05/12/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/761,108

Applicant(s)

COHEN, ANDREW D.

Examiner

SAHAR A. BAIG

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 9-11, 18-22, 24, 26-28, 30, 31 and 34-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 9-11, 18-22, 24, 26-28, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 34-38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 02/23/2011 have been fully considered but they are not persuasive.

On Page 2 of the Remarks section, Applicant argues that the combination of Stone and Minne does not disclose "whether the HDTV is in fact an HDTV." In particular, Applicant argues that Minne's teachings of inquiring the identity of the consumer media unit 14 is not equivalent to having the claimed "video receiving device" determining whether the HDTV is in fact an HDTV. The Examiner respectfully disagrees. Minne's teachings regarding uniquely identifying consumer media unit during communications and transactions with HDTV broadcaster, content provider, and/or intermediary (video receiving device) are analogous to the claimed feature where the video receiving device (such as a set top box) inquires about the capability of the connected television, "whether the HDTV is in fact an HDTV" (Minne paragraphs [0017] & [0035]). Furthermore, Minne's teachings disclose a system configured for receiving encrypted terrestrial high definition television signal where the Intermediary is capable of acting in contractual relationships with one or more of HDTV broadcaster, content provider, and consumer media unit to facilitate the broadcast, sale, and access to encrypted HDTV digital content selections [0017]. This is why Minne's system identifies the television as being an HDTV so that HDTV signals can be transmitted.

Allowable Subject Matter

2. Claims 34-38 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 9-11, and 18-33 rejected under 35 U.S.C. 103(a) as being unpatentable over Stone et al. US Patent Publication No. 2005/0120384 in view of Minne US Patent Publication No. 2005/0138654.

Regarding Claims 1, 11, 20, 21, and 24, Stone discloses a system comprising: a high definition television (HDTV) comprising an interconnect [Figure 3 DVI/HDMI 114 and TMDS LINK 128]; and a video receiving device [Figure 2 Terminal 103] configured to be coupled to a video service provider headend [Figure 2 Headend 102] and comprising an interconnect [Figure 3 DVI/HDMI 114 and TMDS LINK 128]. Stone is silent regarding the setup, wherein the video receiving device and the HDTV are configured such that responsive to the interconnect of the HDTV being initially electrically coupled to the interconnect of

the video receiving device, the HDTV presents a data signal to the video receiving device, the video receiving, device determines whether the HDTV is in fact an HDTV, and responsive to determining that the HDTV is an HDTV, the video receiving device presents the data signal to the headend. In an analogous art, Minne discloses a consumer media unit 14 which comprises a HDTV tuner and memory 32 being provided by a set top box [0016 lines 14-16 & Figure 1 item 14]. Minne discloses that the consumer media unit 14 comprises a consumer identifier for uniquely identifying consumer media unit 14 during communication transactions with HDTV broadcaster. It is used to obtain and verify the identity of the consumer media device [0035]. Therefore it would have been obvious to combine the teachings of Stone and Minne to provide relevant data to the HDTV set.

Regarding Claims 9 and 18, Stone discloses a system wherein the service provider headend is at least one of a cable television provider headend and a satellite television headend [Figure 1 Cable system headend 102].

Regarding Claims 10 and 19, the combined system of Stone and Minne disclose a system wherein the headend is coupled to the video receiving device via a network [Minne 0031] and the network comprises hybrid fiber coaxial cable [Minne 0021].

Regarding Claims 22, 23, 26, and 27, Stone discloses a system wherein the data signal comprises manufacturer and model of the HDTV [0027 lines 1-6].

Regarding Claim 25, the combined system of Stone and Minne disclose that the video signal comprises an HDTV signal [Minne 0041 *HDTV broadcaster periodically datacasts one or more signals of digital content selections over a terrestrial broadcast HDTV digital signal*].

Regarding Claims 28 -31, Stone discloses that the video receiving device comprises a set top box (STB) [Figure 1 Terminals 103 and 103A].

Regarding Claims 32-33, Stone discloses that the interconnect is a digital video interface (DVI) interconnect [Figure 3 DVI/HDMI 114 and TMDS LINK 128].

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAHAR A. BAIG whose telephone number is (571)270-3005. The examiner can normally be reached on Monday-Friday (9:30 - 6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on 571-272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SB
/Pankaj Kumar/
Supervisory Patent Examiner, Art Unit 2424